



Therefore, pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is timely filed within thirty (30) days of receipt of the Summons and Complaint via service.

## **II. PLEADINGS AND NOTICE TO STATE COURT**

True and correct copies of the Complaint and all process, pleadings, and orders on file with the Davidson County Circuit Court to date with respect to this action are attached as **Exhibit A** hereto and are being filed along with this Notice of Removal. Pursuant to 28 U.S.C. § 1446(d), written notice of this removal is being served on the named Plaintiff, through its attorneys, and is being filed with the Circuit Court of Davidson County, Tennessee.

## **III. STATEMENT OF STATUTORY BASIS FOR JURISDICTION**

This action is within the diversity jurisdiction of the United States District Court pursuant to 28 U.S.C. § 1332, which vests federal district courts with jurisdiction over an action in which plaintiff is a citizen of a state and the defendants are citizens of states other than that of plaintiff, and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs. 28 U.S.C. §§ 1332(a)(1) and (c)(1).

## **IV. CITIZENSHIP OF THE PARTIES**

Plaintiff is a Tennessee corporation. Complaint, ¶ 1. Evanston Insurance is a foreign corporation. Complaint, ¶ 2. 28 U.S.C. § 1332(c)(1) deems a corporation to be a citizen of the state in which it is incorporated and the state in which it operates its principal place of business. Evanston Insurance operates its principal place of business in Deerfield, Illinois.

Consequently, on the face of the Complaint, this is an action in which the parties are citizens of different states and only the Plaintiffs are citizens of Tennessee, the state where the action was brought, and the requisite diversity of citizenship exists. 28 U.S.C. §1332(a)(1) and (c)(1).

## **V. AMOUNT IN CONTROVERSY**

Plaintiff seeks to recover an award of compensatory damages not to exceed \$450,000.00, exclusive of interest and costs. Plaintiff also seeks treble damages and attorney's fees pursuant to the Tennessee Consumer Protection Act. Therefore, from the face of the Complaint it is obvious that the minimum amount in controversy exists.

## **VI. REQUEST FOR BRIEFING AND ORAL ARGUMENT**

In the event any question arises as to the propriety of the removal of this matter, Evanston Insurance requests the opportunity to present briefs, oral argument, and, if necessary, additional affidavits and other evidence in support of its position that removal is proper.

## **VII. CONCLUSION**

WHEREFORE, Evanston Insurance Company hereby removes this matter from the Circuit Court of Davidson County, Tennessee, to the United States District Court for the Middle District of Tennessee, Nashville Division, based on 28 U.S.C. §§ 1332, 1441 and 1446.

Respectfully submitted,

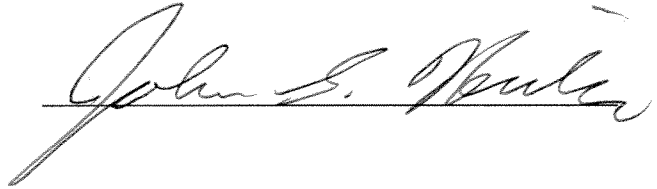
  
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*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 30th day of December, 2010, a true and correct copy of the foregoing document was served on the parties listed below via first class mail, postage prepaid.

J. Brandon McWherter  
Chad A. Naffzinger  
GILBERT RUSSELL MCWHERTER, PLC  
101 North Highland  
Jackson, Tennessee 38301

A handwritten signature in cursive script, appearing to read "John S. McWherter", is written over a horizontal line.